THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 26291 of 1995

Dated: 14.11.2006

Between:

Thangella Rajeswari

… Petitioner

AND

Vice Chairman & Managing Director,
Singareni Collieries Co., Ltd., Kothagudem
& others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 26291 of 1995

ORDER:-

This writ petition is filed for a writ of Mandamus declaring the action of the respondents in not considering the petitioner No.2 for appointment on compassionate grounds vide proceedings No.P(PM)5/3932/NCWA/1326 dated 05.05.1994 of the 3rd respondent as illegal and arbitrary and for a consequential direction to provide employment to the petitioner No.2 in respondents' company.

The alleged husband of the 1st petitioner late Sri Thangella Hanumanthu was an employee in Singareni Collieries Company Limited. He has put in 30 years of service as coal filler and he died on 04.09.1993. In pursuance of the guidelines issued by the Joint Bipartite Committee for the Coal Industry (JBCCI) which provide for appointment of members of the family of the diseased employee stipulated therein on compassionate grounds, the 2nd petitioner, who is the son of the 1st petitioner, applied for providing employment to him. The said request was rejected by the 3rd respondent in his proceedings dated 05.05.1994 wherein it was mentioned that the 2nd petitioner was not born to the legitimate wife of late Thangella Hanumanthu, but through the second wife while the marriage between

Thangella Hanumanthu and his first wife was subsisting. It was also mentioned that as the 1st petitioner was not legally wedded wife, the benefit of compassionate appointment cannot be extended to the 2nd petitioner.

In the affidavit filed in support of the writ petition, it is stated that after the said rejection was made on 05.05.1994, the 1st petitioner filed O.S.No.328 of 1994 before the Principal District Munsif at Kothagudem for declaration that she is the legally wedded wife of late Thangella Hanumanthu and not Smt. Poosala Lakshmi and that the 2nd petitioner is the legitimate son of Thangella Hanumanthu. On a compromise petition filed in I.A.No.730 of 1994, a compromise decree was passed by the learned Principal District Munsif, Kothagudem on 31.10.1994 declaring the 1st petitioner as the legally wedded wife of Thangella Hanumanthu and the 2nd petitioner and three others as legitimate children of late Thangella Hanumanthu born through the 1st petitioner. The said decree also declared Poosala Lakshmi, the sole defendant to the suit, as not the wife of Thangella Hanumanthu.

Armed with the said compromise decree, the 1st petitioner made a representation to the 2nd respondent on 04.11.1994 reiterating her request for providing compassionate appointment to the 2nd petitioner. As no action was taken thereon, the present writ petition is filed.

Heard the learned counsel for the petitioner.

A perusal of the record clearly shows that consequent on the rejection of the 1st petitioner's representation for appointment of the

2nd petitioner on compassionate grounds, the petitioners filed O.S.No.328 of 1994. It is very interesting to notice that the suit was presented on 17.10.1994, filed on 21.10.1994 and disposed of on 31.10.1994 i.e., within ten days of the filing of the suit. Though it is specifically averred in the affidavit that "to avoid the controversy", following the rejection of request for compassionate appointment through the 3rd respondent's letter dated 05.05.1994, the petitioners filed the said suit, but, curiously none of the respondents to the writ petition was made a party to the suit.

The jet speed with which the petitioners got a decree from the civil Court and the fact that none of the respondents in the present writ petition was made a party to the suit, show beyond any pale of doubt that the petitioners obtained a collusive decree to secure employment. On the strength of such a decree, the petitioners are not entitled to any relief in writ proceedings, which are equitable discretionary in nature. The decree, produced by the petitioners, do not have any binding force qua the respondents herein and this Court believes that the petitioners deliberately avoided to make respondents to the writ petition as parties to the suit. Therefore, the petitioners' contention that the 2nd petitioner is the legitimate son of the deceased Thangella Hanumanthu does not commend acceptance.

As this is purely a disputed claim, this Court cannot go into such a claim. It is not in dispute that it is only the legitimate children of a deceased employee apart from other categories of relatives covered by the scheme, who are alone entitled to the employment. There being no legally acceptable evidence to show that the 2nd petitioner is the legitimate son of the deceased Thangella Hanumanthu, the

rejection of the claim for compassionate appointment made by the petitioners, by the 3rd respondent cannot be said to be either arbitrary or illegal.

For the aforementioned reasons, I do not see any merit in the writ petition and hence, the same is dismissed, but in the circumstances, without costs.

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C.V. NAGARJUNA REDDY, J

Date: 14.11.2006
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